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BY ECF & MAIL

May 25, 2012

The Honorable Kiyo A. Matsumoto
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

**RE: United States v. Russo, et al.
Indictment No. 11-CR-30 (KAM)
Defendant Michael Castellano**

Dear Judge Matsumoto:

I represent defendant Michael Castellano (hereinafter “defendant”) in the above-entitled criminal action. Until today, I have been functioning under the assumption that defendant’s sentencing was scheduled to occur on September 24, 2012. I was totally unaware that on May 3, 2012, this Court issued an order moving the sentencing date up to June 14, 2012 at 4:00 p.m. As set forth in the May 3rd order, our pretrial submissions were due on May 21, 2012, and the Government’s response was due on May 25, 2012. I learned of this May 3rd order today, for the first time, when AUSA Geddes emailed us to find out whether we were intending to file a presentencing submission.

AUSA Geddes’s email caught us completely unawares, as we had not previously heard anything about this Court’s May 3rd order. We have since double-checked our two email accounts where we receive PACER notifications, and the most recent email notification that we have received from PACER concerning this defendant was on April 11th, when the Government filed its “Affidavits of Loss.” I am rather certain that we did not receive any notification about the May 3rd order. It is my understanding that our PACER accounts are functioning properly because we have been receiving recent notifications in our other cases. However, to my knowledge, we did not receive a telephone call, fax, or letter concerning the scheduling change in this case.


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In all events, as soon as I learned of this problem, I telephoned your Chambers and spoke with Emily, of your staff. Inasmuch as our presentence submission in this case is essentially complete, I suggested that I would prepare this letter for filing on ECF tomorrow, informing the Court tomorrow why we have not previously complied with the terms of the Court's May 3rd order. And, at the same time, we would file our presentence submission. Emily stated that she thought that such an approach to dealing with this unfortunate problem would meet with the approval of the Court. Accordingly, at the same time that we will be filing this letter, we will also file our presentence submission. I hope that this does, in fact, meet with the Court's approval.

Accordingly, I respectfully request that the Court allow defendant, with the consent of the Government, to file our presentence memorandum on May 25, 2012. I have discussed this issue with AUSA Geddes and she consents to our request. She has also asked that we make a request, on the Government's behalf, for an additional week for the Government to file a response to our submission. I do not anticipate that there will be any reply papers submitted on behalf of defendant.

Thank you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steven R. Kartagener", written in a cursive style.

Steven R. Kartagener

cc: AUSA Elizabeth Geddes